

## REMARKS

Applicants thank the Examiner for informally discussing the issues set forth in the Office Action during a telephone conversation with Applicants' representative on April 2, 1999. Applicants have endeavored to amend the claims according to what was discussed during the informal telephonic interview.

Claims 1-6 were pending in the application prior to this amendment. No claims have been cancelled while claims 7-12 have been added in order for Applicants to more fully claim what they regard as their invention. Accordingly, Applicants present claims 1-12 to the Examiner for consideration.

The Office Action rejects claims 1-6 under 35 U.S.C. § 112, second paragraph, on the grounds that claims 1 and 5 are indefinite for the reasons set forth at page 2 of the Office Action. In response, Applicants have amended claims 1 and 5 in order to specify that the supporting mount is "configured so as to provide means for raising and lowering [the] boom structure and means for swinging [the] boom structure from side to side". In addition, claims 1 and 5 have been amended in order to clarify that "packages or other objects placed on said conveyor belt may be moved to and from various locations by selective movement of said flights of said conveyor belts". Finally, claims 1 and 5 have been amended in order to clarify that the belt and side rails are made of a non-conductive material "in order to resist damage to the conveyor if contacted by [or subjected to] an electrical potential". In view of the foregoing, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 112, second paragraph.

The Office Action rejects claims 1-6 under 35 U.S.C. § 103 as being obvious over U.S. Patent No. 409,398 to Gaumer in view of U.S. Patent No. 675,000 to Dennis and U.S. Patent No. 2,005,442 to Spiegel. In response, Applicants will show that Gaumer does not adequately teach,

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suggest or enable the use of “non-conducting side boards” as that phrase is defined in the present specification.

In particular, Gaumer discloses a “straw stacker” made from unspecified materials. Specifically, Gaumer fails to identify the material from which the “side boards or flanges H<sup>2</sup>” disclosed at page 2, line 24 are made. Evidently the Office Action assumes that the “side boards or flanges H<sup>2</sup>” are made from wood in light of the date of the invention, *i.e.* August 29, 1889, and that wood necessarily qualifies as “an electrically non-conductive material”. Nevertheless, the “side boards or flanges H<sup>2</sup>” could just as likely have comprised steel or another metal commonly used at the time, which would be highly electrically conductive, contrary to the claims of the present invention. Hence, for this reason, Gaumer fails to enable one of ordinary skill in the art to appreciate or understand why the side rails should be electrically non-conductive. This is especially true since Gaumer could not have appreciated the risk of a conveyor contacting high voltage power lines, since they were virtually nonexistent back at the time of the Gaumer invention (*i.e.*, 1889).

Moreover, even if one were to assume that the “side boards or flanges H<sup>2</sup>” of Gaumer were made of wood, it does not follow that such “side boards or flanges H<sup>2</sup>” would necessarily be “electrically non-conductive”. Whether or not wood is conductive or non-conductive depends on whether such wood is dry or moist. For example, one of ordinary skill in the art would know that a freshly cut tree is far more electrically conductive than wood that has dried out over time. Moreover, if the straw stacker disclosed in Gaumer were left out in the rain such that the “side boards or flanges H<sup>2</sup>” were to become water-logged they would become quite electrically conductive rather than being electrically non-conductive.

In short, Gaumer fails to teach or suggest, and therefore fails to enable, one of ordinary skill in the art to manufacture a conveyor having electrically non-conductive side rails. Because Dennis is only cited as a secondary reference and only for the limited reason of a supposedly disclosing a

“non-conductive belt”, the combination of Gaumer and Dennis fails to teach or suggest the use of electrically non-conductive side rails. Similarly, Spiegel was only cited for the limited teaching of “a passage formed by cross-members” and likewise fails to supply any teaching regarding electrically non-conductive side rails or an electrically non-conductive belt.

With respect to the non-conductive conveyor belt limitation, Dennis fails to teach or suggest the use of a non-conductive conveyor belt. Instead, Dennis discloses the use of a “canvas” belt. The term “canvas” according to The American Heritage Dictionary (1981) denotes “a heavy, coarse, closely woven fabric of cotton, hemp, or flax.” Like wood, cotton, hemp and flex are not necessarily “electrically non-conductive”, particularly if moistened, such as if the canvas were exposed to moisture, *e.g.*, by the conveyor belt being left out in the rain.

Moreover, the canvas belt of Dennis is reinforced periodically by leather straps attached to the canvas by nails (lines 79-94). Because the “framework *a* of the butt-adjuster may be of any desired construction” (lines 62-63) it is just as likely as not that framework *a* is made of highly conductive steel or other metal, as would be rollers *b* which are “of the customary sort” (lines 65-66). As the nails and rivets attached to the canvas belt were to periodically touch the rollers, the belt would, at least in part, become electrically conductive.

Finally, because the “framework *a*” is likely made of metal, there would be no definite benefit from having an electrically non-conductive belt in any event. For this reason, there would not be any motivation to combine the teachings of Dennis with those of Gaumer, especially since the “boards or flanges H<sup>2</sup>” of Gaumer are not necessarily “electrically non-conductive” either. Thus, this combination of references does not provide adequate teaching or motivation for one of ordinary skill to build a conveyor having electrically non-conductive side rails and conveyor belt.

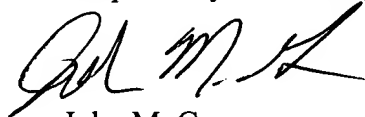
In conclusion, Applicants believe that the claims 1-6, as amended, are patentable and nonobvious over the prior art of record. Accordingly, Applicants request withdrawal of the prior art rejection under 35 U.S.C. § 103.

Finally, Applicants have added new claims 7-12 in order to more precisely claim what Applicants regard as their invention. Newly added independent claim 7 is similar to independent claims 1 and 5, except that claim 7 specifically recites that the "side rails [are] formed of an electrically non-conductive *plastic* material". Support for this limitation is found in the specification at page 4, lines 21-22. The dependent claims which depend from claim 7 are patterned after the originally filed dependent claims. No new matter is being introduced by claims 7-12.

In the event that the Examiner finds any remaining impediment to the prompt allowance of this application, which could be clarified by a telephonic interview, or which is susceptible to being overcome by means of an Examiner's Amendment, the Examiner is respectfully requested to initiate the same with the undersigned attorney.

Dated this 26<sup>th</sup> day of April 1999.

Respectfully submitted,



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